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08/906,493	08/05/1997	WILLIAM T. FREEMAN	MERL-1163	6957

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EXAMINER

LE, VU

ART UNIT

PAPER NUMBER

2613

DATE MAILED: 12/20/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

08/906,493

Applicant(s)

FREEMAN ET AL.

Examiner

Vu Le

Art Unit

2613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2001.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-21 and 32-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21, 32-36, 38 and 40-45 is/are rejected.
- 7) ☒ Claim(s) 37, 39 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***Response to Arguments***

1. Applicant's arguments with respect to claims 1-21 and 32-45 have been considered but are moot in view of the new ground(s) of rejection.

Applicant indicates that claims 1-2, 7, 15, 19 and 44 are amended solely for clarification and not to overcome any rejection (page 5, paper no. 18). This is not so. There was no mention of "image data" in the above mentioned claims as now amended. It is viewed that "data" as previously claimed is much broader than "image data" as now claimed, and applicant amends and argues as such is proof that applicant is attempting to overcome the prior art rejection. Therefore, applicant's arguments to the above mentioned claims are moot.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-2 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coiner et al in view of Nishijima, US 5,915,069.

Re claims 1 and 15, Coiner discloses a recording device (fig. 1) for carrying out the method steps for capturing data comprising: at least one memory (120) for storing data associated with a time period (i.e., trigger mode storage interval, col. 3, lines 63-65); a control processor (108) operative to store the data in said at least one memory such that the stored data associated with a portion of the time period closer to an event has a first resolution and the stored data associated with a portion of the time period further from the event has a second resolution different than the first resolution (col. 1, line 66 to col. 2, line 5, col. 2, line 53 to col. 3, line 7). In Coiner, the event as claimed is the trigger event.

Coiner fails to disclose the data as being image data as now claimed. On the other hand, a related art to Nishijima discloses storing image data at different compression rate during the time before and after occurrence of an event.

Taking the combined teaching of Coiner and Nishijima as a whole, one skilled in the art would have found it obvious to modify Coiner to include image data as one of the data be stored with different resolutions before and after the time an event occurs. Doing so would provide an added perspective to data analysis with the benefits of video analysis for more accurate assessment, especially for video data type applications.

Re claim 2, in Coiner, sensors (102) are representative of a plurality of sensors. Taking the combined teaching of Coiner and Nishijima, a video camera may have qualified as one of the sensors for providing image data. The other sensor(s) in Coiner

would have provided parameters to initiate a trigger event (col. 2, lines 38-52, col. 4, lines 4-7).

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Coiner et al in view of Nishijima as applied to claim 1-2 above and further in view of Yamawaki, US 5,446,659.

Re claim 3, Coiner in view of Nishijima discloses a plurality of sensors (fig. 1, 102) for providing image data and data parameters for initiating a trigger event. However, Coiner fails to elaborate if one of said sensors is an accelerometer as claimed.

On the other hand, a related art to Yamawaki makes it obvious of using an accelerometer (fig. 1, 3, col. 2, lines 10-23) for detecting accelerating data leading up to an event, like a traffic accident.

Having the combined teaching of Coiner, Nishijima and Yamawaki as a whole, it would have been obvious to incorporate an accelerometer detector as claimed. Doing so would have provided an added perspective of determining the rate of acceleration of a moving vehicle leading up to the event, such as an accident.

6. Claims 1-2, 4-8, 10-12, 15-19, 36 and 38 are rejected under 35 U.S.C. 102(e) as being anticipated by Nishijima, PN 5915069 for the same reasons as set forth in ¶7 of the last Office Action.

7. Claims 9, 20-21, 32-35, and 40-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nishijima for the same reasons as set forth in ¶8 of the last Office Action.

8. Claims 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nishijima for the same reasons as applied to claim 1 above and further in view of Freeman, US 6,002,808 and Chow, US 5,016,633 for the same reasons as set forth in ¶9 of the last Office Action.

**Remarks:**

On page 8, first paragraph of applicant's remarks (paper no. 18), applicant asserts that generating image data having different resolutions as a result of sampling is not the same as different compression rate as disclosed in Nishijima. This line of argument has nothing to do with the merits of independent claims 1, 15 and 44. These claims fail to recite any sampling capability. Until the highlighted features as argued are incorporated in those claims, this line of argument is rendered moot.

Applicant argues that Nishijima lacks any teaching or suggestion of the user activated capture switch or a control processor which stores only predetermined amount of data after activation of the capture switch (page 8). The arguments are non-persuasive.

As stated before, in Nishijima, input keys (3d) serves the same functionality as the user activated capture switch as claimed because the user through the input keys can "manually" (emphasis added) specified different compression rate, interval of

compression rate and recording modes. (See col. 4, lines 22-27, col. 8, lines 30-53). If a user can issue a command to dictate a compression rate and an interval of compression rate, then one can conclude that the amount of data being stored as a result of these action is necessarily a predetermined.

Applicant's argues that error detection/correction as relied upon has nothing to do with encryption (page 9). This argument is non-persuasive. It's well known in the art that error detection/correction necessarily involves encryption.

Applicant's argues that Nishijima fails to support the control processor purge the contents of the memory upon user activation of a switch. This argument is non-persuasive. It is emphasized that Nishijima utilizes a RAM memory, which is a volatile memory. The contents in the RAM memory may be purged upon an on/off switching. This feature is trivial and has no patentable weight.

Applicant's arguments pertaining to claims 13-14 as presented in the Brief are non-persuasive. Applicant cannot show non-obviousness by attacking references individually whereas the rejections are based on combinations of references. In re Keller, 208 USPQ 871 (CCPA 1981).

9. Claims 1-4, 15 and 44-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gustin in view of Nishijima.

Re claims 1 and 15, Gustin discloses a recording device for carrying out the method for capturing data (fig. 1) comprising: at least one memory for storing data associated with a time period (col. 3, lines 39-51, col. 4, lines 22-60); a control

processor operative to store the data in the at least one memory such that the stored data associated with a portion of the time period closer to an event has a first resolution and the stored data associated with a portion of the time period further from the event has a second resolution different than the first resolution (col. 4, lines 39-60).

**Note:** in Gustin the triggering event would constitute "a time period" as claimed.

Re claim 2, the first sensor to generate the data is also disclosed in Gustin (col. 1, lines 50-57, col. 3, lines 1-23); the second sensor to generate a signal representing the event is also disclosed in Gustin (col. 4, lines 15-54).

The operation of the control processor is claimed is the same as in claim 1, therefore, the grounds for rejecting claim 1 apply here.

Re claim 3, Gusting discloses the same as claimed (col. 4, lines 34-37).

Re claim 4, the user activated capture switch to start recording of the data as claimed is also disclosed in Gustin (col. 4, lines 31-22-38).

Re claim 44, Gustin discloses a compact portable device (fig. 1) for recording data with no moving part comprising: sensor(s) for generating data associated with a period of time (col. 1, lines 49-57, col. 3, lines 1-15); sensor(s) for generating a signal representing an event (col. 4, lines 22-29); a circular buffer for storing the data (col. 3, lines 39-51); a control processor operative to receive the signal representing the event and to store the data in said circular buffer wherein the data stored associated with a portion of the time period after receipt of the event signal has a first resolution and the stored data associated with a portion of the time prior to receipt of the event signal has a second resolution lower than the first resolution (col. 3, line 39 to col. 4, line 21, col. 4,



lines 43-60); a portable housing (fig. 1, 15); and at least one connector disposed on said housing for outputting the stored data (fig. 1, 30).

Re claim 45, Gustin discloses a user generated start signal to start data recording in which the recording period and the rate of data acquisition are user selected (col. 4, lines 31-60). If a user activated still recording of a single data sample as claimed is desirable, it is viewed that such capability is obvious in view of Gustin since such function is within the confine of the user generated start signal and user selected recording time and recording rate as disclosed in Gustin.

Gusting discloses a RAM as the memory modules for recording data (col. 3, lines 24-38). Gusting discloses having a memory backup to ensure that recorded data are retained even when power is off. However, if Gustin were to purge data from the RAM memory as claimed, the memory backup may be turned off to achieve to task. Thus, purging data from the memory with a switch as claimed is obvious in view of Gustin.

The power source for powering the sensor, the control processor and the circular memory as claimed is substantially disclosed in Gustin (col. 3, lines 34-38).

The tamper resistant housing as claimed is also disclosed in Gustin (fig. 1).

Gustin fails to disclose the data as being image data as now claimed. On the other hand, a related art to Nishijima discloses storing image data at different compression rate during the time before and after occurrence of an event.

Taking the combined teaching of Gustin and Nishijima as a whole, one skilled in the art would have found it obvious to modify Gustin to include image data as one of the data be stored with different resolutions before and after the time an event occurs.

Doing so would provide an added perspective to data analysis with the benefits of video analysis for more accurate assessment, especially for video data type applications.

***Allowable Subject Matter***

10. Claims 37 and 39 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

***Contacts***

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Vu Le whose telephone number is (703) 308-

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6613. The examiner can normally be reached on Monday to Friday from 8:30 AM to 5:00 PM.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4700 or Customer Service whose number is (703) 308-6789.

**Very Important!**

The fax number for submitting all Official communications is (703) 872-9314.

The fax number for submitting informal communications such as drafts, proposed amendments, etc., may be faxed directly to the Examiner at (703) 746-6867.

  
VU LE  
PRIMARY EXAMINER